

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

In Re:	§	Case No. 19-70013 EVR
Bay Area Regional Medical Center, LLC	§	
	§	
	§	
	§	
Debtor(s)	§	Chapter 7

**EXPEDITED APPLICATION TO SELL PROPERTY OF THE BANKRUPTCY ESTATE
FREE AND CLEAR OF LIENS AND OTHER INTERESTS AND FOR PAYMENT OF
AUCTIONEER'S FEES AND EXPENSES OF SALE AND REQUEST FOR LIMITED
NOTICE**

LOCAL RULE 9013(b) NOTICE: THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

EXPEDITED RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED; YOU SHOULD FILE AN IMMEDIATE RESPONSE. REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY

TO THE HONORABLE EDUARDO V. RODRIGUEZ, U. S. BANKRUPTCY JUDGE:

NOW COMES, Catherine Stone Curtis, ("Trustee") the Chapter 7 Trustee for the above-captioned and numbered bankruptcy case and files her Expedited Application to Sell Property of

the Bankruptcy Estate Free and Clear of Liens and Other Interests and for Payment of Auctioneer's Fees and Expenses of Sale ("Application"), and in support respectfully shows the Court as follows:

1. Trustee intends to sell by public auction and/or private sale pursuant to 11 U.S.C. § 363 (b) and (f) and Bankruptcy Rule 6004, as set forth below (the "Property"):

**PROPERTY
DESCRIPTION:**

Medical Disposables/Supplies, including, but not limited to, bandages, saline solution, and other disposables used by the Debtor during its pre-petition operation as a community hospital in the Houston, Texas, area.

**DATE AND TIME
OF SALE:**

Upon entry of the Court Order.

PLACE OF SALE:

The property will be advertised for sale online at www.slapsale.com

TERMS:

Free and clear of all liens, with all valid and unavoidable liens to attach to the proceeds of sale.

**IDENTITY OF
AUCTIONEER:**

Brett Neal, Auctioneer License No. 16863

**RATE OF
AUCTIONEER'S
COMPENSATION:**

Fifteen percent (15%) of the gross sales price with a 10% buyer's premium to be retained by the auctioneer and returned to the estate if sold by auction or ten percent (10%) of the gross sales price, plus reasonable expenses, if brokered and/or if sold by individual sale.

2. The property description of each item, as verified by the Debtor and the Trustee's agent, is as follows:

Medical Disposables/Supplies, including, but not limited to, bandages, saline solution,

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and other disposables used by the Debtor during its pre-petition operation as a community hospital in the Houston, Texas, area.

The Trustee filed an Application to Employ Auctioneer on February 27, 2019, at ECF#41, and an Order approving his employment has not been entered. Trustee hereby seeks to pay such commissions, together with all expenses of sale, out of the gross auction proceeds, upon receipt thereof.

3. The subject property is property of the bankruptcy estate and is being sold free and clear of liens and other interests, including all interests of Debtor, with all other valid and unavoidable liens to attach to the proceeds. There are no warranties, express or implied, and the Property is being sold "as-is and where-is."

4. Bankruptcy Rule 6004 requires an application and order to effectuate a sale free and clear of liens. A sale free and clear of liens is necessary to induce buyers to purchase the property. It is necessary to file this Application so that any party-in-interest asserting a lien, whether or not such assertion is known to Trustee or Debtor, will be placed on notice that the property will be sold free and clear of its liens unless otherwise ordered.

5. Concurrently with the filing of this Application, the trustee will mail to all creditors the notice attached hereto as Exhibit "A," pursuant to Bankruptcy Rule 2002 and Local Rule 2002. If no timely objections are filed, the Court should enter its order approving the sale, approving payment of fees and expenses, and finding that the property is wholly owned by the bankruptcy estate.

6. Trustee does not believe that Debtor's bankruptcy estate will suffer any negative tax consequences as a result of the subject sale, or that only nominal taxes will be incurred as a result of the sale.

7. **Expedited Consideration Requested.** The Trustee requests expedited consideration of the sale because some of the disposable products described above, including the saline solution, are marked with expiration dates as early as April 2019. The Trustee accordingly requests that any objections to the sale be filed no later than March 5, 2019, at 5:00 p.m. Central Standard Time.

8 Given the expedited relief requested, the Trustee requests waiver of the 14-day stay under Federal Rule of Bankruptcy Procedure 6004(h).

9. **Limited Notice.** The Trustee also requests, by this Motion, limited notice to those parties who have filed a Notice of Appearance with the Court. Ordinarily, the debtor, trustee, all creditors and indenture trustees are required to receive at least 21 days' notice by mail of a proposed sale of estate property not in the ordinary course of business. FED. R. BANKR. P. 2002(a)(2), 6004(a). Here, the creditor matrix contains approximately 30,000 creditors, many of whom are former patients of the Debtor who incurred patient-care services while the Debtor operated pre-petition as a community acute-care hospital. Serving all creditors by mail would pose a substantial burden on the estate, given that the expected cost to serve out a multiple-page motion, even with cost-savings measures, to be at least \$15,000.00. The Trustee accordingly respectfully requests that the Court exercise its authority under section 105 of the Bankruptcy Code to limit the notice to only those parties who have elected to receive ECF Notice and filed Notices of Appearance.

WHEREFORE, PREMISES CONSIDERED, Trustee respectfully prays that the Court enter an order approving the sale under the terms and conditions set forth herein. In addition, Trustee prays for any further relief, both general and special, legal and equitable, to which she may show herself justly entitled.

Respectfully submitted,

Date: February 27, 2019

/S/CATHERINE STONE CURTIS

Catherine Stone Curtis

TBN: 24074100

Federal ID No.: 1129434

PULMAN, CAPPuccio & PULLEN LLP

P.O. Box 720788

McAllen, Texas 78504

Ph: (956) 467-1900

Fax: (956) 331-2815

Email: ccurtis@pulmanlaw.com

Chapter 7 Trustee

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been served on the counsel for debtor, and the United States Trustee by electronic service according to BR 9003 on February 27, 2019.

VIA ELECTRONIC NOTICE:

U.S. Trustee

US Trustee
606 N Carancahua
Corpus Christi, TX 78401

VIA ELECTRONIC NOTICE AND VIA FIRST CLASS MAIL:

Bay Area Regional Medical Center, LLC

7670 Woodway Drive
Suite 160
Houston, TX 77063 *Debtor*

Richard L Fuqua, II

Fuqua & Associates, PC
5005 Riverway
Ste. 250
Houston, TX 77056
Debtor's Counsel

VIA FIRST CLASS MAIL TO THE FOLLOWING PARTIES REQUESTING NOTICE:

Corinne Boyer
927 Naoke Branch Ln.
Pearland, TX 77584

Carlie Dyer
97 Ridgewood Circle
Wimberley, TX 78676

Anita M. Golden
2612 Ave. J
Santa Fe, TX 77510

Frank Kittle, Jr.
615 Nottingham LN
Dickinson, TX 77539

And to all parties requesting notice by ECF Notice.

/S/CATHERINE STONE CURTIS

Catherine Stone Curtis